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UNITED STATES OF AMERICA
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13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 LU ZHANG,

19 Defendant.
20
21

No. CR 2:23-00596-RGK-1

STIPULATION AND JOINT REQUEST FOR
A PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, PRIVACY
ACT INFORMATION, AND COOPERATING
WITNESS INFORMATION

PROPOSED ORDER FILED SEPARATELY

22
23 Plaintiff, United States of America, by and through its counsel
24 of record, the United States Attorney for the Central District of
25 California and Assistant United States Attorneys Maxwell Coll and
26 Nisha Chandran, and defendant LU ZHANG ("defendant"), by and through
27 his counsel of record, defense attorney Shaun Khojayan (collectively
28 the "parties"), for the reasons set forth below, request that the

1 Court enter the proposed protective order (the "Protective Order")
2 governing the use and dissemination of personal identifying
3 information ("PII") of real persons pursuant to Federal Rule of
4 Criminal Procedure Rule 16(d)(1), material that may contain
5 information within the scope of the Privacy Act, and information
6 related to confidential informant(s) and/or cooperating witness(es)
7 who may testify at trial.

8 Introduction and Grounds for Protective Order

9 1. Defendant is charged in this matter with violations of
10 Conspiracy to Commit Money Laundering, in violation of 18 U.S.C. §
11 1956(h); Concealment Money Laundering, in violation of 18 U.S.C. §
12 1956(a)(1)(B)(i); and International Money Laundering, in violation
13 of 18 U.S.C. § 1956(a)(2)(B)(i). Defendant is detained pending
14 trial.

15 2. A protective order is necessary because the government
16 intends to produce to the defense materials regarding confidential
17 informants or cooperating witnesses who participated in the
18 government's investigation and who may testify at trial. Because
19 these materials could be used to identify the confidential
20 informants or cooperating witnesses, the government believes that
21 the unauthorized dissemination or distribution of the materials may
22 compromise the ability of such persons to participate effectively in
23 future investigations in an undercover capacity and/or may expose
24 him/her to potential safety risks.

25 3. A protective order is also necessary because the
26 government intends to produce to the defense materials containing
27 third parties' PII. The government believes that disclosure of this
28 information without limitation risks the privacy and security of the

1 information's legitimate owners. Because the government has an
2 ongoing obligation to protect third parties' PII, the government
3 cannot produce to defendant an unredacted set of discovery
4 containing this information without the Court entering the
5 Protective Order. Moreover, PII makes up a significant part of the
6 discovery in this case and such information itself, in many
7 instances, has evidentiary value. If the government were to attempt
8 to redact all this information in strict compliance with Federal
9 Rule of Criminal Procedure 49.1, the Central District of
10 California's Local Rules regarding redaction, and the Privacy Policy
11 of the United States Judicial Conference, the defense would receive
12 a set of discovery that would be highly confusing and difficult to
13 understand, and it would be challenging for defense counsel to
14 adequately evaluate the case, provide advice to defendant, or
15 prepare for trial.

16 4. An order is also necessary because the government intends
17 to produce to the defense materials that may contain information
18 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
19 Information"). To the extent that these materials contain Privacy
20 Act Information, an order is necessary to authorize disclosure
21 pursuant to 5 U.S.C. § 552a(b)(11).

22 5. The purpose of the Protective Order is to (a) allow the
23 government to comply with its discovery obligations while protecting
24 this sensitive information from unauthorized dissemination, and
25 (b) provide the defense with sufficient information to adequately
26 represent defendant.

27 Definitions

28 6. The parties agree to the following definitions:

1 a. "CI Materials" includes any information relating to a
2 confidential informant's or cooperating witness's prior history of
3 cooperation with law enforcement, prior criminal history,
4 statements, or any other information that could be used to identify
5 a confidential informant or cooperating witness, such as a name,
6 image, address, date of birth, or unique personal identification
7 number, such as a Social Security number, driver's license number,
8 account number, or telephone number.

9 b. "PII Materials" includes any information that can be
10 used to identify a person, including a name, address, date of birth,
11 Social Security number, driver's license number, telephone number,
12 account number, email address, or personal identification number.

13 c. "Confidential Information" refers to any document or
14 information containing CI Materials, PII Materials that the
15 government produces to the defense pursuant to this Protective Order
16 and any copies thereof.

17 d. "Defense Team" includes (1) defendant's counsel of
18 record ("defense counsel"); (2) other attorneys at defense counsel's
19 law firm who may be consulted regarding case strategy in this case;
20 (3) defense investigators who are assisting defense counsel with
21 this case; (4) retained experts or potential experts; and
22 (5) paralegals, legal assistants, and other support staff to defense
23 counsel who are providing assistance on this case. The Defense Team
24 does not include defendant, defendant's family members, or any other
25 associates of defendant.

26 Terms of the Protective Order

27 7. The parties jointly request the Court enter the Protective
28 Order, which will permit the government to produce Confidential

1 Information in a manner that preserves the privacy and security of
2 third parties. The parties agree that the following conditions in
3 the Protective Order will serve these interests:

4 a. The government is authorized to provide defense
5 counsel with Confidential Information marked with the following
6 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
7 ORDER." The government may put that legend on the digital medium
8 (such as DVD or hard drive) or simply label a digital folder on the
9 digital medium to cover the content of that digital folder. The
10 government may also redact any PII contained in the production of
11 Confidential Information.

12 b. If defendant objects to a designation that material
13 contains Confidential Information, the parties shall meet and
14 confer. If the parties cannot reach an agreement regarding
15 defendant's objection, defendant may apply to the Court to have the
16 designation removed.

17 c. Defendant and the Defense Team agree to use the
18 Confidential Information solely to prepare for any pretrial motions,
19 plea negotiations, trial, and sentencing hearing in this case, as
20 well as any appellate and post-conviction proceedings related to
21 this case.

22 d. The Defense Team shall not permit anyone other than
23 the Defense Team to have possession of Confidential Information,
24 including defendant, while outside the presence of the Defense Team.

25 e. Notwithstanding the paragraph above, defendant may
26 see and review CI Materials only in the presence of defense counsel,
27 and defense counsel shall ensure that defendant is never left alone
28 with any CI Materials. At the conclusion of any meeting with

1 defendant at which defendant is permitted to view CI Materials,
2 defendant must return any CI Materials to defense counsel, who shall
3 take all such materials with counsel. Defendant may not take any CI
4 Materials out of the room in which defendant is meeting with defense
5 counsel. At no time, under no circumstance, will any Confidential
6 Information be left in the possession, custody, or control of
7 defendant, regardless of defendant's custody status.

8 f. Defendant may review PII Materials only in the
9 presence of a member of the Defense Team, who shall ensure that
10 defendant is never left alone with any PII Materials. At the
11 conclusion of any meeting with defendant at which defendant is
12 permitted to view PII Materials, defendant must return any PII
13 Materials to the Defense Team, and the member of the Defense Team
14 present shall take all such materials with him or her. Defendant
15 may not take any PII Materials out of the room in which defendant is
16 meeting with the Defense Team.

17 g. Defendant may see and review Confidential Information
18 as permitted by this Protective Order, but defendant may not copy,
19 keep, maintain, or otherwise possess any Confidential Information in
20 this case at any time. Defendant also may not write down or
21 memorialize any data or information contained in the Confidential
22 Information.

23 h. The Defense Team may review Confidential Information
24 with a witness or potential witness in this case, including
25 defendant. Defense counsel must be present whenever any CI
26 Materials are being shown to a witness or potential witness. A
27 member of the Defense Team must be present if PII Materials are
28 being shown to a witness or potential witness. Before being shown

1 any portion of Confidential Information, however, any witness or
2 potential witness must be informed of, and agree in writing to be
3 bound by, the requirements of the Protective Order. No member of
4 the Defense Team shall permit a witness or potential witness to
5 retain Confidential Information or any notes generated from
6 Confidential Information.

7 i. The Defense Team shall maintain Confidential
8 Information safely and securely, and shall exercise reasonable care
9 in ensuring the confidentiality of those materials by (1) not
10 permitting anyone other than members of the Defense Team, defendant,
11 witnesses, and potential witnesses, as restricted above, to see
12 Confidential Information; (2) not divulging to anyone other than
13 members of the Defense Team, defendant, witnesses, and potential
14 witnesses, the contents of Confidential Information; and (3) not
15 permitting Confidential Information to be outside the Defense Team's
16 offices, homes, vehicles, or personal presence. CI Materials shall
17 not be left unattended in any vehicle.

18 j. To the extent that defendant, the Defense Team,
19 witnesses, or potential witnesses create notes that contain, in
20 whole or in part, Confidential Information, or to the extent that
21 copies are made for authorized use by members of the Defense Team,
22 such notes, copies, or reproductions become Confidential Information
23 subject to the Protective Order and must be handled in accordance
24 with the terms of the Protective Order.

25 k. The Defense Team shall use Confidential Information
26 only for the litigation of this matter and for no other purpose.
27 Litigation of this matter includes any appeal filed by defendant and
28 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the

1 event that a party needs to file Confidential Information with the
2 Court or divulge the contents of Confidential Information in court
3 filings, the filing should be made under seal. If the Court rejects
4 the request to file such information under seal, the party seeking
5 to file such information publicly shall provide advance written
6 notice to the other party to afford such party an opportunity to
7 object or otherwise respond to such intention. If the other party
8 does not object to the proposed filing, the party seeking to file
9 such information shall redact any CI Materials or PII Materials and
10 make all reasonable attempts to limit the divulging of CI Materials
11 or PII Materials.

12 1. The parties agree that any Confidential Information
13 inadvertently produced in the course of discovery prior to entry of
14 the Protective Order shall be subject to the terms of the Protective
15 Order. If Confidential Information was inadvertently produced prior
16 to entry of the Protective Order without being marked "CONFIDENTIAL
17 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
18 shall reproduce the material with the correct designation and notify
19 defense counsel of the error. The Defense Team shall take immediate
20 steps to destroy the unmarked material, including any copies.

21 m. The parties agree that if any Confidential
22 Information contains both CI Materials and another category of
23 Confidential Information, the information shall be handled in
24 accordance with the CI Materials provisions of the Protective Order.

25 n. Confidential Information shall not be used by the
26 defendant or Defense Team, in any way, in any other matter, absent
27 an order by this Court. All materials designated subject to the
28 Protective Order maintained in the Defense Team's files shall remain

1 subject to the Protective Order unless and until such order is
2 modified by this Court. Within 30 days of the conclusion of
3 appellate and post-conviction proceedings, defense counsel shall
4 return CI Materials to the government or certify that such materials
5 have been destroyed. Upon request by the government, defense
6 counsel shall return all PII Materials, certify that such materials
7 have been destroyed, or certify that such materials are being kept
8 pursuant to the California Business and Professions Code and the
9 California Rules of Professional Conduct.

10 o. In the event that there is a substitution of counsel
11 prior to when such documents must be returned, new defense counsel
12 must be informed of, and agree in writing to be bound by, the
13 requirements of the Protective Order before the undersigned defense
14 counsel transfers any Confidential Information to the new defense
15 counsel. New defense counsel's written agreement to be bound by the
16 terms of the Protective Order must be returned to the Assistant U.S.
17 Attorneys assigned to the case. New defense counsel then will
18 become the Defense Team's custodian of materials designated subject
19 to the Protective Order and shall then become responsible, upon the
20 conclusion of appellate and post-conviction proceedings, for:

21 (1) returning to the government, certifying the destruction of, or
22 retaining pursuant to the California Business and Professions Code
23 and the California Rules of Professional Conduct all PII Materials;
24 and (2) returning to the government or certifying the destruction of
25 all CI Materials.

26 p. Defense counsel agrees to advise defendant and all
27 members of the Defense Team of their obligations under the
28 Protective Order and ensure their agreement to follow the Protective

Order, prior to providing defendant and members of the Defense Team with access to any materials subject to the Protective Order.

q. Defense Counsel has conferred with defendant regarding this stipulation and the proposed order thereon, and defendant agrees to the terms of the proposed order.

r. Accordingly, the parties have agreed to request that the Court enter a protective order in the form submitted herewith.

IT IS SO STIPULATED.

DATED: January 26, 2023

E. MARTIN ESTRADA
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/s/

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UNITED STATES OF AMERICA

DATED: 1-26-2024



SHAUN KHOJAYAN
Attorney for Defendant
LU ZHANG